

JONATHAN ANIM, A 089-437-035)
Petitioner,)
)
v.) CIVIL ACTION NO. 11-10017-JLT
)
JOSEPH D. McDONALD, ET AL.,)
Respondents.)

In addition to naming his immediate custodian (Sheriff McDonald) as a Respondent, Anim also names as Respondents Bruce Chadbourne, Director of ICE Burlington, MA Field Office, Janet Napolitano, Secretary of the U.S. Department of Homeland Security, and U.S. Attorney General Eric Holder, Jr. The Court

will dismiss the claims against all Respondents except for Sheriff McDonald, who is the "proper respondent" in this action. See Rumsfeld v. Padilla, 542 U.S. 426, 439 (2004)(immediate custodian of petitioner is proper respondent in habeas action).

B. Service of the Petition

The Court will direct service of the petition and a response by the Respondent. In addition to the habeas claim raised under Zadvydas, the Respondent may address any issues raised by Anim challenging the underlying basis for the final order of removal, and whether these claims, if any, are barred by the REAL ID Act of 2005.

C. The Motion for Appointment of Counsel

This Court cannot find that appointment of counsel pursuant to 18 U.S.C. § 3006A is in the interest of justice at this time. This petition does not appear to present novel issues of fact or law. Additionally, Anim's pleadings are lucid and organized, and demonstrate that he has at least some familiarity with legal terms and concepts with respect to immigration law and immigration proceedings. Further, Anim fails to provide any financial disclosures under oath demonstrating that he lacks funds to retain counsel on his own. Thus, notwithstanding that he may have a cognizable Zadvydas habeas claim, the Court cannot find that appointment is warranted, and his Motion for Appointment of Counsel (Docket No. 2) will be DENIED without

prejudice to renew after the Respondent has filed an answer or a responsive pleading to the petition, upon good cause shown.

CONCLUSION

Based on the foregoing, it is hereby Ordered that:

1. Sheriff Joseph D. McDonald, Jr. shall be the sole Respondent in this action and the Clerk shall correct the docket accordingly;
2. Petitioner's Motion for Appointment of Counsel (Docket No. 2) is DENIED;
3. The Clerk of this Court shall serve a copy of the petition upon (i) Joseph D. McDonald, Jr., Sheriff, Plymouth County Correctional Facility, 26 Long Pond Road, Plymouth, MA 02360; and (ii) the United States Attorney for the District of Massachusetts;
4. The Respondent shall, within 21 days of receipt of this Order, file an answer or other responsive pleading; and
5. The Respondent shall provide the Court with at least 48 hours advance notice of any scheduled removal of Petitioner, and any scheduled transfer of the Petitioner out of the jurisdiction.

SO ORDERED.

/s/ Joseph L. Tauro
UNITED STATES DISTRICT JUDGE

DATED: January 10, 2011